IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

Bail Appl..No. 7037 of 2007()

CC.79/2005 of J.M.F.C.,CHALAKUDY

.....

PETITIONER/1ST ACCUSED

RAJU, S/O. FRANCIS,
KALLAMCKAL HOUSE, POYYA VILLAGE, KRISHNANKOTTA DESOM.

BY ADV. SRI.M.SHAJU PURUSHOTHAMAN

RESPONDENTS: COMPLAINANT

STATE, REP. BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, REPRESENTING S.I. OF POLICE, MALA.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7037 OF 2007

Dated this the 13th day of November, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Sec.323 of the IPC. All offences are bailable, it is submitted. Consequent to the non-appearance of the petitioner, the case against him has been transferred to the list of Long Pending Cases and a warrant of arrest issued by the learned Magistrate to procure the presence of the petitioner is chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these

circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

Nan/ //true copy// P.S. to Judge